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Fax

OFFICIAL

To: Art Unit 2644

From: Jane E. Sagers, Paralegal

Fax: 703-872-9306

Pages: 5 pages (including coverpage)

Date: February 26, 2004


Re: Office Action sent to our office in  
error

X Urgent X Please Confirm Receipt by Return Facsimile to Fax No. (612) 332-4731

Please find attached an Office Action mailed February 20, 2004 for US Serial Number 10/021,436 to our office in error. We are not the attorney of record for this matter. I contacted the Examiner Minsun Harvey regarding this and she instructed me to contact Bobbie Davenport. I was unable to reach Mr. Davenport therefore I am faxing a copy to the fax number indicated on the Office Action.

Please contact me if there is anything further I need to do with this Office Action.

Thank you.

Jane E. Sagers  
Paralegal  
[sagers@fogglaw.com](mailto:sagers@fogglaw.com)  
612-455-1684

This fax contains confidential information that may be attorney-client privileged. If you received this fax in error, please contact the sender at (612) 332-4720 and destroy the original



## UNITED STATES PATENT AND TRADEMARK OFFICE

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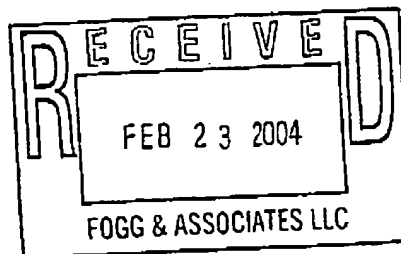
| APPLICATION NO.            | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------|-------------|----------------------|---------------------|------------------|
| 10/021,436                 | 12/19/2001  | Kazuo Yabe           | 4105-2              | 2085             |
| 34206                      | 7590        | 02/20/2004           | EXAMINER            |                  |
| FOGG AND ASSOCIATES, LLC   |             |                      | HARVEY, MINSUN OH   |                  |
| P.O. BOX 581339            |             |                      | ART UNIT            |                  |
| MINNEAPOLIS, MN 55458-1339 |             |                      | PAPER NUMBER        |                  |

2644

DATE MAILED: 02/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.



**Office Action Summary**

Application No.

10/021,436

Applicant(s)

YABE ET AL.

Examiner

Minsun Harvey

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.  
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-5 and 7-9 is/are rejected.  
 7) ☒ Claim(s) 6 is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) ☐ Notice of Informal Patent Application (PTO-152)  
 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 to 5 and 7 to 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Huemann.

Huemann discloses an acoustic apparatus which is comprised of one or more front speaker (20) disposed at front side in a space for outputting a first audio signal (output of 10); one or more rear speaker disposed at rear side in the space for outputting a second audio signal (36); a volume control device for controlling volume level of the first audio signal and the second audio signal (50); a balance control device for controlling balance between the volume levels of the first audio signal and the second audio signal by attenuating the volume levels of the first audio signal and the second audio signals (46 and 38); an external signal supplying device for supplying an external audio signal to either one for the front speaker and the second speaker (12 or 14); a control device for controlling the volume control device to attenuate the volume level of the audio signal when the external audio signal is supplied to one of the front speaker and the second speaker which has not been attenuated by the balance control device and the balance control device attenuates the volume level of the one of the front speaker and the second speaker (16); a mute instruction unit for detecting a mute instruction inputted by the user (44); and the control device detects a supply of the external audio signal (40 and 52).

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3. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. This is in response to the applicant's remark, which was received on 11/20/2003.

On page 5, lines 14 to 20, the applicant has argued that "the present invention is directed to the problem of the balance control function in that the volume level of the rear speakers increases to the desired main volume level when the volume levels of the audio signals output from the front speakers are attenuated. That is, when the external audio signal is supplied to the front speakers and the volume levels of the rear speakers increase, the sound image moves to the rear direction and the user may fail to correctly hear and understand the external audio signal from the external device". The applicant's argument is not persuasive because the claims do not claim such limitations.

On page 5, lines 21 to page 6, line 5, the applicant has argued "Huemann fails to disclose attenuating the main volume level, controlled by the volume control device, to prevent the sound image from moving to the rear direction". The applicant's argument is not persuasive because the claims do not claimed, "to prevent the sound image from moving to the rear direction".

The examiner maintains the rejection as set forth above.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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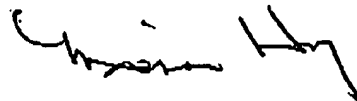
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minsun Harvey whose telephone number is (703) 308-6741. The examiner can normally be reached on Mondays to Fridays from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Isen, can be reached on (703) 305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MIN SUN GH HARVEY  
PRIMARY EXAMINER